

**REMARKS**

**Summary Of The Office Action**

Claims 1-40 are pending in the application.

Claims 5-9 and 13-40 are allowed. Claims 3 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

Claims 1, 2, 4, 10 and 12 are rejected under 35 U.S.C. § 102(e) as being anticipated by Czaja et al (USP 6,424,631). Our comments with respect to this rejection are set forth below.

**Analysis Of The Rejection of Claims 1, 2, 4, 10 and 12**

In rejecting claims 1 and 10, the Examiner cites Fig. 1B and Fig. 3 and col. 7, line 4, to line 8, line 64 of Czaja et al., as disclosing each of the claimed features. The Examiner considers the combination of the despreader 206 and rate determination unit 208 of Czaja et al., to be equivalent to the step of pre-decoding data received at variable data rates and detecting quality information of the pre-decoded data received at the respective data rates, as recited in claim 1 (and a somewhat similar feature recited in claim 10).

The despreader 206 of Czaja receives demodulated encoded data 212, despreads the encoded data and outputs soft symbol data 214 to both the rate determination unit 208 and the decoder 210. The rate determination unit 208 performs calculations as shown in col. 8, lines 25-38, and based upon the results of these calculations determines the rate as explained at col. 8, lines 38-64.

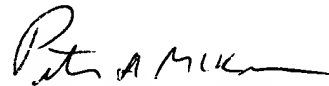
**RESPONSE UNDER 37 C.F.R. § 1.116**  
**U.S. APP. NO. 09/386,965**

Applicant submits that the combination of the despreaders 206 and the rate determination unit 208 is different from the claimed step of pre-decoding data. That is, the despreaders simply despreads a spread spectrum and the rate determination unit 208 simply performs calculations in order to determine a data rate. The despreaders and rate determination unit, acting alone or in combination, do not perform a pre-decoding process.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

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